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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,144	09/23/2003	Mark Trocki	VI/00-001.CIP.D3	2967

21140 7590 04/09/2007  
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EXAMINER
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MACNEILL, ELIZABETH

ART UNIT	PAPER NUMBER
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3767

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/669,144

Applicant(s)

TROCKI ET AL.

Examiner

Elizabeth R. MacNeill

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 8-11 and 13-15 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is in response to applicant's amendment submitted 21 February 2007.

#### ***Claim Objections***

1. Claim 15 is objected to because of the following informalities: there appears to be a typographical error in the claim. The claim now reads "wherein the rod member controlthe one or more segmented members." The examiner believes that the claim is intended to read "wherein the rod member controls the one or more segmented members" because it appears that the "s" has been written in by hand. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,6-11, and 13-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Trull et al (US 5,947,929).

Regarding claims 1 and 8, Trull teaches a syringe (210), a body (212), a plunger (220) in an injector (250) with a housing (250), and a piston (240/ rod 254), with a collet (and elastomeric) member (238) which releasably grasps and retracts the plunger (220) (Fig 13)

Regarding claim 11, Trull teaches a syringe (210), a body (212), a plunger (254) in an injector (250) with a housing (250), and a piston (240) with a sleeve member (242) and one or more plunger gripper members (232, 234) which are adapted to be biased by the sleeve member into engagement with the plunger upon retraction of the piston. Fig 13.

Regarding claims 6,7,9,10,13, and 14 the piston is adapted to drive and engage the plunger without regard to the orientation of the plunger with respect to the piston.

***Allowable Subject Matter***

3. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: Claim 12 recites the limitations of claim 11 (rejected above) with the further limitations of a collar connected to one end of the piston sleeve, the collar defining an opening through which the piston extends; a plunger cap connected to the collar, the plunger cap defining an interior space and a plurality of slots formed in a side thereof; a gripper extender disposed on an end of the piston within the interior space of the plunger cap; a plurality of grippers disposed through the slots and engageable with the gripper extender, and a biasing member in contact with the piston sleeve; whereby,

upon movement of the piston in a rearward direction, the biasing member biases movement of the piston sleeve to substantially prevent movement of the piston sleeve in the rearward direction to cause the gripper extender to push the plurality of grippers through the slots in the plunger cap into engagement with the plunger within the syringe. The structure of the plunger cap and collar with slots and gripper extenders, grippers, and biasing member are not suggested or taught by the prior art at the time the invention was made.

### ***Response to Arguments***

5. Applicant's arguments, see remarks, filed 21 February 2007, with respect to the 35 USC 112 rejections have been fully considered and are persuasive. The rejection of claims 1,8 and 11 has been withdrawn. The rejection of claims 8-10 over Barresi is also withdrawn.

6. Regarding Trull, applicant has argued that Trull teaches that the plunger and piston disengage when driven in a rearward direction. This is not found persuasive because the cited portion of the Trull patent (Col 10) relates to when the piston is fully withdrawn into the face plate 250 and the plunger is disengaged from the piston in order to replace the front loading syringe. Trull is not describing the injection phase of operation in the cited section. Applicant's arguments regarding claim 1 are unclear. The faceplate and receptacle 250/246 are not a part of the piston assembly. Piston/driving head 240 has flexible/elastomeric/collet members 233 and 234. See Fig 13. The Trull rejection is maintained.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth R. MacNeill whose telephone number is (571)-272-9970. The examiner can normally be reached on 7:00-3:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ERM

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MacNeil  
3/28/07*

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SUPERVISORY PATENT EXAMINER

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